In the Supreme Court of the United States

OCTOBER TERM, 1934

No. 13, ORIGINAL

THE UNITED STATES OF AMERICA, PLAINTIFF

v.

THE STATE OF OREGON, DEFENDANT

MEMORANDUM RESPECTING THE OBJECTIONS OF THE STATE OF OREGON TO THE DECREE PROPOSED BY THE UNITED STATES HEREIN

On April 20, 1935, a copy of the form of decree proposed by the United States in this case was sent to the Attorney General of Oregon. By letter dated April 23, 1935, L. A. Liljeqvist, Esq., acting for the Attorney General of Oregon, addressed a letter to the Solicitor General of the United States, the original of which has been lodged with the Clerk of this Court and of which the following is the relevant portion:

> We think that paragraph 3 of your proposed Decree should be eliminated as contray to the opinion rendered by the Court. We also think that part of paragraph 14, commencing with the words "the exceptions" down to the words "are hereby sustained", should be eliminated.

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We think paragraph 17 should be eliminated as you have already submitted what you propose. We ask that you submit to the Court paragraph 17 rendered as follows:

"17. This Decree shall not be deemed to determine the rights, if any, of the State of Oregon against third persons not parties to this suit."

We have nothing further to submit.

The United States does not acquiesce in the foregoing suggestions of the State of Oregon.

1. OBJECTION OF THE STATE OF OREGON TO PARAGRAPH 3 OF THE PROPOSED DECREE: Paragraph 3 of the decree proposed by the United States is the same as paragraph 3 of the decree proposed by the Special Master. While the State's exceptions to the findings of the Special Master as to stable lands within the disputed area were not considered by this Court in detail, as stated at page 7 of the opinion filed herein on April 1, 1935, yet on page 20 of the opinion this Court held that the United States is entitled to a decree in conformity "with the decree recommended by the Special Master so far as it is not inconsistent with this opinion." Paragraph 3 of the proposed decree does not appear to be inconsistent with this Court's opinion.

2. OBJECTION OF THE STATE OF OREGON TO PARAGRAPH 14: The exceptions filed by the United States are referred to on page 6 of this Court's opinion as being intended to eliminate consideration of questions affecting the rights of the upland patentee proprietors and settlers who are not parties to the

suit. In the following paragraph, on page 7, the opinion states that it is unnecessary to determine the rights of owners, other than Oregon, of uplands bordering on the meander line boundary, or whether the meander line is correct, and that the adjudication of their rights is not prerequisite to the entry of an appropriate decree. At page 20 of the opinion the Court accepted the findings and determination of the Special Master to which the Government had not excepted, as to the title and interest of Oregon in Mud Lake and in The Narrows. It did not accept the findings and determination of the Special Master to which the Government had excepted. It is respectfully submitted that the provision in the proposed decree sustaining the exceptions of the United States is in conformity with this Court's opinion.

3. REQUEST OF THE STATE OF OREGON THAT PARAGRAPH 17 OF THE PROPOSED DECREE BE ELIMINATED: It is suggested by the United States that further orders will have to be made herein relating to questions of costs and the Special Master's compensation. Paragraph 17 of the proposed decree would therefore appear to be proper.

4. PARAGRAPH 17 PROPOSED BY THE STATE OF OREGON: It is the purpose of this proceeding to quiet title as against all possible claims of the State of Oregon to the area involved herein, and it is respectfully submitted that no language should be included in the decree which might justify the State of Oregon in asserting claims in subsequent litiga-

tion between the United States and the private claimants whose rights are yet to be determined. The United States therefore objects to the provision proposed by the State of Oregon.

Respectfully submitted.

STANLEY REED,
Solicitor General.

MAY 1935.

U. S. GOVERNMENT PRINTING OF ICE: 1935